Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	
	)	

REPLY COMMENTS OF THE

WYOMING PUBLIC SERVICE COMMISSION

Filed February 1, 2007

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INTRODUCTION

On July 25, 2006, the Federal Communications Commission (Commission) issued a Public Notice (Notice) seeking comment on an intercarrier compensation reform plan filed July 24, 2006, by the Intercarrier Compensation Task Force (Task Force) facilitated by the National Association of Regulatory Utility Commissioners (NARUC).[1] Although the plan, known as the "Missoula Plan", was filed by the NARUC Task Force, members of the Task Force and NARUC did not take official positions on the substance of the Missoula Plan itself. The Notice established a comment date of September 25, 2006, and a reply comment date of November 9, 2006. In the Commission's Order of August 29, 2006, these deadlines were extended to October 25, 2006, and December 11, 2006, respectively. The Commission's Order herein of December 22, 2006, further extended the reply comment deadline to February 1, 2007.

SOME CONTINUING CONCERNS FOR LATER RESOLUTION

The Wyoming Public Service Commission (Wyoming PSC) still has many concerns and reservations about the Missoula Plan. As we stated in our initial comments filed on October 25, 2006, the Wyoming PSC continues to believe that any plan to reform intercarrier compensation must be straightforward, simple to administer, simple to apply and implemented carefully over a longer time period than that proposed in the Missoula Plan. The Wyoming PSC is also concerned with preserving existing state commission jurisdiction over intrastate switched access and intrastate reciprocal compensation rates. We reiterate the need for a more equal sharing of the benefits and burdens of the Missoula Plan among all providers and customers and the need for clearly defined and understood requirements ensuring that cost savings are passed through

[1] Letter from Commissioner Tony Clark, Chair, NARUC Committee on Telecommunications, Commissioner Ray Baum, Chair, NARUC Task Force, and Commissioner Larry Landis, Vice Chair, NARUC Task Force, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, filed July 24, 2006, with the Missoula Plan as an attachment.

from carriers to consumers. The Missoula Plan proposes to substantially reduce switched access rates, reallocate responsibilities for intrastate intercarrier compensation among carriers and consumers and permit, virtually mandating, significant increases in the subscriber line charge (SLC) to end-use customers -- all without requiring carriers to pass any of their savings on to end-use customers.

AN INTERIM SOLUTION TO THE PHANTOM TRAFFIC PROBLEM IS NEEDED

As we stated in our initial comments and as many other commenters also said, the Wyoming PSC strongly encourages the Commission to move forward quickly to put in place an interim solution to Phantom Traffic issues. At present, local exchange carriers are often unable to bill terminating switched access charges or obtain reciprocal compensation for significant volumes of traffic utilizing their networks. We encourage the Commission to issue an order addressing Phantom Traffic before trying to deal with the other numerous intercarrier compensation reform issues in the Missoula Plan. The Wyoming PSC believes such an order should implement the key elements of the interim Phantom Traffic Solution described in the Missoula Plan and incorporate the clearly stated ability for the Commission to undertake enforcement action against carriers. The Missoula Plan proposes both an interim solution and a comprehensive final solution for the Phantom Traffic problem, both of which require the transmission and delivery of accurate and complete telephone number signaling information, the creation and exchange of standardized call detail records and the implementation and enforcement of Phantom Traffic rules by the Commission.

The interim solution provides substantial benefits and guidelines for the communications industry in starting to cure this problem. The interim solution could begin the flow of accurate and reliable billing information for intercarrier compensation while the Commission is considering the entire Missoula Plan proposal. While it may not fully resolve the Phantom Traffic problem, the interim solution takes a significant step forward by requiring all originating carriers to include call detail records and call detail information with their traffic and by prohibiting all carriers from stripping out this important call information. Because the Missoula Plan intends to create a more level playing field for all communications providers that invest in or use the public switched telephone network (PSTN), Phantom Traffic rules should apply to all communications service providers whose traffic originates on, transits through, or terminates on the PSTN. In working toward a more uniform regime for the exchange of telecommunications traffic among all carriers, the Commission should begin the reformation process with an interim Phantom Traffic solution.

The Missoula Plan's proposed interim and comprehensive final solutions provide a framework to address and resolve Phantom Traffic issues. Any interim or comprehensive final plan adopted by the Commission should set forth specific and detailed rules for the transmission of sufficient call detail in the signaling path to allow accurate intercarrier billing, for the proper and identifiable routing of calls and for the effective and timely enforcement of the Phantom Traffic rules by the Commission. These rules should apply to all traffic on the PSTN or traffic destined for the PSTN from other networks and from all communications service providers.

The Wyoming PSC agrees with many commenters that Voice over Internet Protocol (VoIP) traffic cannot be assumed to be entirely interstate in nature. The Commission should adopt rules for identifying and delineating intrastate VoIP traffic so that such traffic can be assessed the appropriate intrastate terminating switched access charges.

The Commission's final rules should require the transmission and delivery of accurate and complete telephone number signaling information, the creation and efficient exchange of standardized call detail records and the swift enforcement of these rules by the Commission. The interim solution adopted by the Commission should immediately implement the call signaling and enforcement rules set forth in the Missoula Plan. The Wyoming PSC also recommends that any interim solution adopted by the Commission not supplant previously existing state commission rules and requirements or arrangements between carriers addressing Phantom Traffic issues. Therefore, we recommend any interim plan adopted by the Commission be deemed the default approach and any existing traffic exchange agreements between originating, transiting and terminating carriers be left in place until a permanent Phantom Traffic solution is promulgated by the Commission. Where originating, transiting and terminating carriers have agreed to and implemented satisfactory arrangements to minimize or eliminate Phantom Traffic, it is important for the states and the industry that these arrangements remain in effect.

WYOMING'S SUCCESSFUL TRANSITION TO TRUE COST-BASED RATES

If the Missoula Plan were to be adopted, its supporters view it as a step in the direction of providing more and better telecommunications options to consumers. Lowering intrastate switched access charges would be one such significant step. However, since intrastate switched access revenues are an important revenue source, there must be a measured transition from inflated intrastate switched access rates that have subsidized local basic service rates to a cost-based system in states which, unlike Wyoming, have not already made the transition to cost-based access and local basic service rates. The Missoula Plan proposes a transition mechanism that includes an Early Adopter Fund and a Restructure Mechanism to keep whole Wyoming companies that have already reduced intrastate switched access rates and to reduce the unfair burden which would otherwise fall on rate payers in Wyoming who are already are subject to cost-based local and intrastate switched access rates. Additionally, because of the Wyoming Telecommunications Act of 1995, Wyoming has eliminated cross subsidies between intrastate switched access and local exchange service rates. In Wyoming, Carrier Common Line costs have been eliminated and are therefore not allocated to or included in intrastate switched access rates. Over time, and after a transition period employing the Early Adopter Fund and Restructure Mechanism, we would hope to see the transition to cost-based rates in other states.

THE FEDERAL BENCHMARK MECHANISM AMENDMENT: FAIRNESS FOR HIGH-COST EARLY ADOPTER STATES

The Wyoming PSC is encouraged by and supports the preliminary results of the work done recently by the Missoula Plan supporters and a group of Early Adopter states, including Wyoming. This workgroup, with the submission of data from industry and approximately 31 states, was able to address some of the uncertainties and questions about the Early Adopter Fund and the Restructure Mechanism as they exist in the Missoula Plan. Wyoming is an Early Adopter state which has rebalanced rates, reduced intrastate switched access charges and implemented an explicit subsidy mechanism – the Wyoming Universal Service Fund. The Missoula Plan, as filed with the Commission, was unfairly discriminatory because it provided little or no benefit to Early Adopter states like Wyoming while providing considerable benefits to states which have, to date, avoided such Early Adopter action. Under the *Missoula Plan Amendment to Incorporate a Federal Benchmark Mechanism (Federal Benchmark Mechanism)*[2],

[2] Letter and attachments from the Wyoming PSC, other state commissions and various Missoula Plan Supporters submitting the ***Missoula Plan Amendment to Incorporate a Federal Benchmark Mechanism*** to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket 01-92, filed January 30, 2007.

Wyoming could receive an estimated $25 to $27 million annually under the Federal Benchmark Mechanism Amendment. These independently calculated estimates reflect the results Wyoming has accomplished by implementing cost-based rates for local exchange telephone service and switched access service and by eliminating cross subsidies among telecommunications services. The Federal Benchmark Mechanism, filed with the Commission on January 30, 2007, appropriately targets support to states with the highest end user rates. It is a reasonable and supportable solution to the thorniest Early Adopter issues.

The Federal Benchmark Mechanism proposes a comparison of local rates to a "federal benchmark." The federal benchmark standard fairly addresses the Early Adopter problem in Wyoming where substantial switched access charge reductions were coincident with local rate increases for end users. The Federal Benchmark Mechanism strengthens the "preservation and advancement" of universal service in areas with high local service rates. The Federal Benchmark Mechanism provides the Commission a way to implement the universal service policy requirements placed on it by Section 254 of the federal Telecommunication Act that rural high-cost local service rates be "affordable" and "reasonably comparable." The Federal Benchmark Mechanism also reduces the penalty otherwise imposed on consumers in high-rate Early Adopter states since it limits funding of revenue recovery in states which have maintained low and generally subsidized local service rates. Finally, the Federal Benchmark Mechanism takes into account the work of states like Wyoming which have a functioning state universal service fund. Based on Federal Benchmark Mechanism's estimates, all customers in the nation, including Wyoming, would see only a $0.38 per month per access line surcharge to fund *both* the Federal Benchmark Mechanism Amendment as filed on January 30, 2007, and the Lifeline Program revisions required by the Missoula Plan.

CONCLUSION

The Wyoming PSC supports the Federal Benchmark Mechanism amendment and encourages the Commission to adopt it because it addresses one area of significant inequity between the customers within different states. Although adoption would be a positive step, the overall impact of the Missoula Plan remains problematic. Whether or not the Federal Benchmark Mechanism amendment is adopted by the Commission, other remaining issues would cause the Wyoming PSC to continue its opposition to the Missoula Plan. For rural and non-rural carriers serving customers in the rural areas of Wyoming, the Missoula Plan, as filed, contains inequities and unfair treatment for both customers and providers. If the Missoula Plan were adopted, it should be implemented as a transition plan with specific and relatively short timelines for a transition to either cost-based switched access rates or equal access rates, and, in any case, without an artificial distinction made simply on whether the local service provider is classified as "non-rural" or "rural". The real issue should be whether or not the customer being served is a rural high-cost customer or a non-rural lower cost customer. Any reform of intercarrier compensation should be cost-based and consistently applied to similarly situated customers whether they are served by a rural or non-rural carrier.

The Missoula Plan also fails to eliminate disparities in intercarrier rates and does not require a pass through to customers (sharing) of the cost savings many carriers will realize through reduced intercarrier rates and switched access charges. End-use customers should realize the same benefits and rate reductions from the Missoula Plan as the carriers will receive. The Wyoming PSC believes any reduction in switched access charges and intercarrier compensation should be accompanied by safeguards and requirements assuring these cost reductions to carriers are passed on to end-use customers.

Finally, the Wyoming PSC reiterates its support of a timely and comprehensive resolution to the Phantom Traffic issue. Solving this problem is fundamental to any fairly reformed system of intercarrier compensation and will create the necessary solid ground on which other reforms can be built. The Commission should begin by immediately adopting the interim solution described above.

Respectfully submitted,

PUBLIC SERVICE COMMISSION OF WYOMING

Steve Furtney

Steve Furtney, Chairman

Kathleen A. Lewis

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